

From: Brett Holt
To: Microsoft ATR
Date: 1/24/02 10:20am
Subject: Microsoft Settlement

As provided for under the Tunney Act, I would like to comment on the proposed Microsoft settlement. As a consumer, I am concerned about the consequences of allowing Microsoft to continue to restrain fair competition, resulting in far less choice and lower levels of innovation to the users of computer products.

Although there are numerous objections which should be raised, including the lack of any substantive penalties for past misconduct, I would like to focus on only one reason which I feel is of particular importance as we move forward from this case.

The best part of the settlement is its attempt to address the unfair monopolistic advantage Microsoft achieves by making it difficult for competing vendors to build software that interoperates with Microsoft's operating systems and applications. While desiring to remedy this problem is certainly good, the proposed remedies are not likely to be effective. The proposed settlement allows Microsoft to exclude all but the very largest software vendors from access to the technical information needed to build interoperable programs. This has an unfair effect on both small software vendors and developers of open source software. The greatest potential for future innovation rests on precisely that portion of the marketplace that is excluded in this settlement. A far better remedy would be to require Microsoft to make this technical data publicly available. The cost of compliance need not be significantly greater than it would be if only large competitors were allowed access, due to the relative ease with which such information can be made available over the Internet. I am convinced that this would be one of the best ways to protect the interests of consumers and to promote innovation over the long term.

Sincerely,

Brett R. Holt
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